

**GERRY E. STUDDS STELLWAGEN BANK
NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL CHARTER**

INTRODUCTION

A National Marine Sanctuary is an area of the marine environment of special national, and sometimes international, significance warranting protection and management under the National Marine Sanctuaries Act. As stewards of coastal and ocean resources, the National Oceanic and Atmospheric Administration (NOAA) protects and manages Sanctuaries through the National Marine Sanctuary System (NMSS). The mission of the NMSS is to comprehensively protect and manage marine areas of special significance and thereby protect their ecological and cultural integrity for the benefit of current and future generations. In carrying out this mission, NOAA uses ecologically sound principles of resource conservation to develop and implement stewardship, education and research programs that foster public understanding, support and participation. Use of sanctuary resources must be consistent with the primary objective of the program, which is resource protection. The NMSS provides leadership and acts as a catalyst to link the assets of government and non-government organizations to focus people's attention on the need to manage and protect marine resources.

Goals of the National Marine Sanctuary System are:

- to enhance resource protection through comprehensive and coordinated conservation and management tailored to the specific resources that complements existing regulatory authorities;
- to support, promote, and coordinate scientific research on, and monitoring of, Sanctuary resources to improve management decision-making in the Sanctuary;
- to enhance public awareness, understanding, and wise use of the marine environment; and
- to facilitate, to the extent compatible with the primary objective of resource protection, multiple uses of the Sanctuary not prohibited pursuant to other authorities.

The Gerry E. Studds Stellwagen Bank National Marine Sanctuary is one of those special places. Designated in 1992, the Sanctuary encompasses Stellwagen Bank and Basin, Tillies Bank and Basin, and a portion of Jeffreys Ledge. These areas are biologically rich offshore feeding, spawning, and nursery grounds for a wide variety of invertebrates, fish and whales. As such, they are very important to the regional economy as fishing grounds and whale watching areas. Of equal consideration, they are an intrinsic

source of high bio-diversity. The Sanctuary acts to insure that this critical habitat area is preserved and protected.

NATIONAL MARINE SANCTUARY SYSTEM SANCTUARY ADVISORY COUNCIL POLICY STATEMENT

The NMSS regards the involvement of the public and the development of a stewardship ethic as vitally important to successfully conserve sanctuary resources. One key way to achieve this involvement is the formation of Sanctuary Advisory Councils.

Sanctuary Advisory Councils are formed of members from the public to: (1) provide advice to the Sanctuary Superintendent on the management and protection of the sanctuary, or (2) assist the NMSS in guiding a proposed site through the designation process.

The NMSS is committed to the full support, utilization, and enhancement of Councils at all sanctuaries. In order for Councils to achieve their full potential, the NMSS will:

- at each site, provide sufficient support to allow Councils to operate efficiently and effectively;
- provide support and guidance from the national office to help Councils operate efficiently and at a basic level of consistency across the system;
- promote coordination and communication among Councils and among sanctuary staff that work closely with Councils; and
- develop training programs appropriate to Council officers and members, and Sanctuary Superintendents/Managers and staff.

ESTABLISHMENT AND AUTHORITY

Section 315 of the National Marine Sanctuaries Act (NMSA or Act; U.S.C. § 1445a) authorizes the Secretary of Commerce to establish Sanctuary Advisory Councils to provide assistance to the Secretary of Commerce in the designation and management of National Marine Sanctuaries. This authority has been delegated to the Director of the National Marine Sanctuary System (Director). The Director hereby establishes the Stellwagen Bank National Marine Sanctuary Advisory Council (Council).

This Charter describes the objectives and scope of the Council's activities, description of duties for which the Council is responsible, procedural requirements on the appointment of Council members and Officers, requirements for

the conduct of Council members and meetings, and other requirements. All Council activities must be conducted pursuant to this Charter.

OBJECTIVES AND DUTIES

1. The Council, in accordance with the Act, shall provide advice and recommendations to the Sanctuary Superintendent, regarding management of the Gerry E. Studds Stellwagen Bank National Marine Sanctuary ("Sanctuary").

2. The Council shall draw on the expertise of its members and other sources in order to provide advice.

3. Council members shall serve as liaisons between their communities and the Sanctuary, keeping the Sanctuary staff informed of issues and concerns, as well as performing outreach to their respective communities on the Sanctuary's behalf.

4. The Council may serve as a forum for consultation and deliberation among its members and as a source of consensus advice to the Sanctuary Superintendent. Such consensus advice shall fairly represent the collective and individual views of the Council members. In formulating such consensus advice, the Council members shall recall that the primary objective of the Sanctuary and the Act is resource protection.

5. The Council shall act solely as an advisory body to the Sanctuary Superintendent. Nothing in the NMSA or this Charter constitutes authority to perform operational or management functions, or to represent or make decisions on behalf of the Sanctuary, NOAA, or the Department of Commerce.

MEMBERS, ALTERNATES, AND OFFICERS

1. The Council shall consist of no more than six (6) governmental ex-officio and fifteen (15) non-governmental members. The ex-officio members shall be non-voting and shall be designated by the cooperating government agencies so indicated. The non-governmental members shall be voting and shall be appointed by the Director from representatives of local user groups, conservation and other public interest organizations, scientific and educational organizations, or members of the public interested in the protection and multiple use management of Sanctuary resources. Membership is to be balanced in terms of points of view represented, and advisory functions the Council will perform.

2. The Sanctuary Superintendent will sit on the Council as a non-voting member and shall work with the Chair in scheduling each meeting and approving the agenda to ensure that topics

of discussion are relevant to the Sanctuary. Council meetings may not be conducted in the absence of the Sanctuary Superintendent or his/her designee.

3. There are two categories of seats, governmental and non-governmental, for which members are appointed. The following procedures shall govern the application, nomination and appointment of Council members.

a) (i) Governmental (six members). By virtue of the shared interests of Federal and State jurisdictions in the implementation of the Sanctuary's management, each of the following government entities shall be requested to designate one individual to serve on the Council. (Of the numerous responsibilities encompassed within each entity, the specific functional area of expertise needing representation is identified in parentheses):

National Marine Fisheries Service Northeast Regional Center (federal fisheries and protected species management); New England Regional Fishery Management Council (federal fisheries management planning); U.S. Coast Guard (federal marine resources and maritime enforcement); Massachusetts Office of Coastal Zone Management (state-federal ocean management consistency); Massachusetts Division of Marine Fisheries (state ocean fisheries management); and, Massachusetts Division of Law Enforcement (cooperative state-federal environmental law enforcement).

(ii) If a government entity decides no longer to participate as a member of the Council, or fails to attend three consecutive Council meetings and is formally removed by the Director, the Sanctuary Superintendent, with the approval of the Director, shall invite another appropriate government entity to replace that agency on the Council.

(iii) If it is found that a governmental member of the Council has violated one or more of the terms of this Charter, the Sanctuary Superintendent may recommend to the Director that the appropriate agency be notified and requested to replace the designee.

(b) (i) Non-governmental (fifteen members). A representative of each of the following activities, which are integrally affected by the management goals of the Sanctuary, shall be selected: conservation (2), education (2), research (2), recreation (1), whale watching (1), fixed fishing gear (1), mobile fishing gear (1), marine transportation (1), business/industry (1). Additionally, there shall be three (3) citizen at-large representatives whose selection is based on geographic diversity, breadth of experience and knowledge regarding marine issues, policies and practices.

The non-governmental members are appointed for two-year and three-year terms, and may compete for re-appointment. If necessary, terms of appointment may be changed to provide for balanced (staggered) expiration dates. Should a non-governmental seat become vacant, the vacated position shall be advertised and a replacement appointed as specified below. The newly appointed member shall serve for a full term beginning on the date of his/her swearing-in by the Sanctuary Superintendent.

(ii) Members serve at the discretion of the Director. The Sanctuary Superintendent may recommend to the Director the removal of a non-governmental member of the Council if that member has violated one or more terms of the Charter or on any of the following grounds:

- is convicted of any felony offense;
- is found to have violated any of the following laws or regulations promulgated thereunder: the National Marine Sanctuaries Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, or any environmental law for which NOAA has jurisdictional responsibility;

- is determined to have abused his or her position as a member of the SAC (including but not limited to use of SAC information for personal gain; use of SAC position to advance a personal agenda or harm another member of the SAC or of the community; misrepresentation of, or spreading misinformation about the Council or the Sanctuary; and refusal to recuse himself or herself if so requested by the Sanctuary Superintendent and/or Chair in a matter in which the member has a conflict of interest);

has a change to the professional affiliation(s) and/or personal circumstances that comprise a significant portion of that member's qualifications for being a member of the SAC;

- misses three consecutive meetings (as defined by this Charter) without reasonable justification;
- disrupts on more than one occasion Council meetings in a manner that interferes with the Council conducting its business; or
- violates any other term of this Charter.

4. An alternate (from the same government entity) of a governmental member may attend a Council meeting as the agency representative on occasion, if the Chair and Sanctuary Superintendent are notified in advance. Advance notification

must include the name, address, and position of the individual designated. An alternate may not name another alternate.

5. As each non-governmental seat becomes vacant and the process for selection of a new member (described under Appointments) is conducted, the Sanctuary Superintendent shall recommend to the Director the member and an alternate from among the top three candidates resulting from the review process. The alternate shall have all the rights of the member at such times that the alternate is officially substituting for the member. The member shall notify the Chair and the Sanctuary Superintendent before an alternate officially attends a meeting.

6. (a) Council Officer Elections and Terms

The Council shall elect one member to serve as Chair, one member to serve as Vice-Chair, and one member to serve as Council Secretary. The Vice-Chair shall act as Chair in the absence of the Chair. The term of the Council Secretary is one year. The Council Secretary may serve consecutive terms if reelected. Terms of the Chair and Vice-Chair are two years, except that the initial term of the Vice-Chair is one year. The Chair and Vice-Chair may serve a maximum of two consecutive terms (four years) if reelected. A Chair or Vice-Chair may leave his/her term to run for another Council officer position if desired. If the Chair or Vice-Chair is elected to a new position, the Council shall nominate and elect a new representative for the vacated position.

Election for all positions is by majority vote of the voting members, and votes shall be made by written ballot. Members who will not be present at the time of the election may submit their vote in writing to the Sanctuary Superintendent prior to the meeting. Following the first election, elections for Chair and Vice-Chair shall be held in alternate years.

(b) Roles of Council Officers:

(i) Chair: The Chair schedules and sets agendas for all Council meetings with the approval of the Sanctuary Superintendent, presides over all meetings of the full Council and ensures that meetings are run according to accepted meeting practices, signs all correspondence and documents authorized by the Council, and generally represents the Council's interests and concerns to the public.

(ii) Vice-Chair: The Vice-Chair serves as Chair in the absence of the Chair and assists as necessary in performing executive duties of the Council.

(iii) Council Secretary: The Council Secretary assists Sanctuary staff in performing administrative duties as directed by the Chair or Vice-Chair.

APPOINTMENTS

Public notice shall be provided as to the vacancy of non-governmental constituent group seat(s) and at-large representatives. Applications for ensuing terms for vacant seats shall be submitted to the Sanctuary Superintendent directly. Copies of all applications and nominations for each seat may be submitted by the Sanctuary Superintendent to Council members for review and screening. Any Council member that has a conflict of interest (financial, personal, self-nomination, etc.) shall recuse him/herself from making a selection for the vacant seat. The Sanctuary Superintendent shall make selection from among those recommended by the Council, or from among other applicants or nominees, with final approval by the Director. In all cases, submission of written statements of particular interest, qualifications, and experience shall be requested. Guidelines for applying shall be supplied at the appropriate time.

ADMINISTRATION

1. Members of the Council shall serve without pay except that each member may receive travel expenses including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of Title 5, U.S.C., for travel to and from official Council meetings. No members of working groups (defined below) may receive travel expenses for working group activities or meetings. Travel expenses for governmental members of the Council may be provided by their own agencies.

2. The NMSS may make available such staff, information, administrative services, or assistance as the Sanctuary Superintendent determines are reasonably required to enable the Council and its subcommittees/working groups to carry out their functions.

OPERATION

1. Meetings

(a) Meetings are held at the call of the Chair, with the approval of the Sanctuary Superintendent.

(b) Advice and recommendations made by the Council are advisory only, and shall be made by majority vote of those eligible to vote. The Chair or the Sanctuary Superintendent may request a recorded vote. A quorum of more than half the non-governmental

(voting) membership of the Council must be present when any vote is taken or general consensus reached.

(c) Each meeting shall be open to the public.

(d) Interested persons shall be permitted to present oral or written statements on items on the agenda.

(e) Emergency meetings may be held at the call of only the Chair, but the Sanctuary Superintendent or his/her designee must be present for the Council to formally conduct business at such a meeting. A quorum must also be present for the Council to formally conduct business at such a meeting. As soon as is practical after an emergency meeting, the Chair shall report, in writing, to the Sanctuary Superintendent, and shall include in this report: (1) detailed meeting minutes, (2) the nature of the emergency being addressed by the Council, (3) any recommendations adopted by the Council, and (4) a list of the members in attendance.

(f) Timely notice of each meeting, including the time, place, and general topics to be discussed, shall be published in at least one local newspaper of general circulation within the vicinity of the Sanctuary. Additional notice may be given by such other means as will result in appropriate publicity to interested groups.

(g) The Council shall meet as frequently as necessary, not to exceed once a month, but at least once every six months.

(h) The Council meeting place shall be chosen to accommodate anticipated public attendance and be accessible to those interested in attending.

(i) Minutes of each meeting shall be kept and contain a summary of attendees and matters discussed. Such minutes shall be available to the public in the Sanctuary office.

2. Procedures for Providing Advice. The following procedures shall be used to provide advice:

(a) The Council may provide advice and recommendations to the Sanctuary Superintendent on any issue or problem relating to its scope of responsibility and placed on the agenda, or in response to a particular request by the Sanctuary Superintendent. This request may be made verbally or in writing. Requests for information, assistance, or advice from other NOAA offices, or other agencies shall be made in writing and must be coordinated through, and approved by, the Sanctuary Superintendent.

(b) The Council acts under the auspices of the National Marine Sanctuary System. Any matters that the Council would like to place on the agenda or otherwise raise independently must be approved by the Sanctuary Superintendent prior to doing so.

(c) The Council shall provide advice directly to the Sanctuary Superintendent via a formal written recommendation. Draft recommendations and verbal discussions will not be considered official advice from the Council, but may be considered as background information.

(d) The Council may base their recommendations on a vote of the eligible Council members with negative votes and abstentions noted, or on a general consensus reached during discussions, with minority opinions and views noted.

(e) Any information or recommendations resulting from discussions in subcommittees or work groups must be presented to and approved by the full Council prior to being submitted to the Sanctuary Superintendent.

3. Conduct of Individual Members

(a) No Council member may use or allow the use, for other than official purposes, of information obtained through or in connection with his or her Council affiliation that has not been made available to the general public.

(b) When speaking to the public or writing about any matter regarding the Sanctuary in a document for distribution beyond the Council membership, Sanctuary Superintendent or Sanctuary staff, a member shall clearly distinguish those recommendations, opinions, or positions officially adopted by the Council as a body from those he or she may have as an individual. In no case shall a member represent his or her own opinions as those of the Council, the Sanctuary Superintendent, Sanctuary staff, or NOAA.

(c) Any Council member that has an interest (financial, personal or business interest) in any matter before the Council or a subcommittee or working group shall identify such interest prior to discussion and voting on such matter. No member shall cast a vote on any matter that would provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law. An affected member who may not vote on a matter may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the interest that would be affected.

4. Conduct of the Council as a Body

(a) The Council shall not make recommendations, express opinions or otherwise speak to other than the Sanctuary Superintendent unless the Council has express permission from the Sanctuary Superintendent and states that its opinions and findings do not necessarily reflect the position of the Sanctuary or NOAA.

(b) Any correspondence, press releases, informational releases, news articles, or other written documents that are intended to speak for the Council as a body must be coordinated with, and

approved by, the Chair and the Sanctuary Superintendent. The following disclaimer must be placed in documents originating from the Council:

"The Council is solely an advisory body. The opinions and findings of this publication do not necessarily reflect the position of the Gerry E. Studds Stellwagen Bank National Marine Sanctuary and the National Oceanic and Atmospheric Administration."

5. Council Letterhead

The Council shall, with the assistance and approval of the Sanctuary Superintendent, design and use its own letterhead. All correspondence from the Chair or other members of the Council, or the Council as a body, shall be on this letterhead. The Council shall not use official NOAA letterhead for any correspondence or other purpose.

6. Subcommittees and Working Groups

(a) Subcommittees: The Council and the Sanctuary Superintendent may establish such subcommittees as necessary to fulfill its duties. Subcommittees shall be composed solely of members of the Council; at the Superintendent's discretion, alternates may also serve on subcommittees. The subcommittee must be chaired by a primary member of the Council. Subcommittees shall be recognized as official sub-units of the Council and are subject to all requirements of this Charter.

(b) Working Groups: Working groups may be established by the Council and the Sanctuary Superintendent for specific purposes or topics that need focused attention that cannot be accomplished by a subcommittee. Working Groups may be composed of members of the Council and/or persons outside the Council. Working Groups shall be chaired by a member of the Council and shall function under the purview of the Council. Working Groups established by the Council to address specific issues shall disband once the specialized or technical assistance on the particular matter is submitted to the Council. No members of the working groups, including members who are also members of the Council, may receive travel expenses for the working group meetings or other activities.

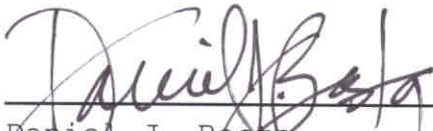
OTHER TERMS OF THIS CHARTER

1. The Council shall operate pursuant to the terms of this Charter.


2. This Charter shall remain in effect for a period of three years from the date of signature.

3. Six months prior to the expiration of this Charter, the need for the Council will be evaluated by the NMSS, with input from Council members as appropriate, to determine whether to renew the Charter.

4. Revisions to this Charter may be made as determined necessary by the NMSS with input from the Council. _____

A handwritten signature in dark ink, appearing to read "Daniel J. Basta", written over a horizontal line.

Daniel J. Basta
Director
National Marine Sanctuary System

A handwritten date "2/3/05" in dark ink, written above a horizontal line.

Date Director